

STATE OF CALIFORNIA  
FISH AND GAME COMMISSION  
INITIAL STATEMENT OF REASONS FOR REGULATORY ACTION  
(Pre-publication of Notice Statement)

Amend Section 708  
Title 14, California Code of Regulations  
Re: Big Game License Tag, Application, Distribution, and Reporting Procedures.

I. Date of Initial Statement: August 14, 2002

II. Dates and Locations of Scheduled Hearings:

- |     |                     |           |                           |
|-----|---------------------|-----------|---------------------------|
| (a) | Notice Hearing:     | Date:     | August 30, 2002           |
|     |                     | Location: | Oakland, California       |
| (b) | Discussion Hearing: | Date:     | October 25, 2002          |
|     |                     | Location: | Crescent City, California |
| (c) | Adoption Hearing:   | Date:     | December 6, 2002          |
|     |                     | Location: | Monterey, California      |

III. Description of Regulatory Action:

- (a) Statement of Specific Purpose of Regulation Change and Factual Basis for Determining that Regulation Change is Reasonably Necessary:

Existing regulations provide for annual distribution of premium deer, bighorn sheep, elk and pronghorn antelope license tags through the Department's Big Game Drawing, which selects applicants based on their hunt choice and lowest, computer-generated random numbers. Results from public meetings, informal and formal surveys indicate the majority of applicants favor a drawing system that also provides an advantage to individuals or parties who participate in the Big Game Drawing consistently and are not selected. Existing regulations specify conditions under which unsuccessful applicants may accrue points for use in future drawings. The proposed change implements a Modified Preference Point drawing system that awards a specified minimum portion of the tag quota for each hunt in the Big Game Drawing to those eligible applicants with maximum accrued points (Preference Point Drawing). The remaining portion is awarded to applicants based on hunt choice and lowest, computer-generated random numbers, without consideration of accumulated points (Draw-By-Choice Drawing). As proposed, provisions of the Modified Preference Point drawing system are as follows:

1. Loss of preference points by successful applicants.

Successful applicants who receive tags for their first choice premium deer, bighorn sheep, elk or pronghorn antelope hunts will lose all preference points for that species.

2. Party applications.

For party applications, the Department shall use the average preference point value of all party members (total preference points for the party divided by

number of party members) as the basis for consideration in the drawing for that species. Point averages will not be rounded.

To maintain desired deer harvest levels, party applications for premium deer hunts will not be split to meet the tag quota if the number of party members exceeds the number of tags available. Party applications which exceed the number of tags available shall be bypassed until the quota is reached.

3. Point only applications.

Persons who do not wish to apply for premium deer, bighorn sheep, elk or pronghorn antelope tags may earn one preference point for any or all of these species by submitting the appropriate application(s) and writing the point code number for that species, as defined by the Department, in the hunt choice box (first choice only for deer). Persons applying for a preference point in this manner are subject to the same application requirements as regular drawing applicants.

4. Department records of preference points.

The Department shall maintain records of preference points earned by individual applicants based on the hunter identification number provided on each application (driver's license number, Department of Motor Vehicles identification number, or hunter identification number assigned by the Department). Applicants shall notify the Department's License and Revenue Branch, at 3211 S Street, Sacramento, California 95816, in writing, of any changes or corrections regarding name, mailing address or hunter identification number.

5. Inactive applicants.

Persons not applying for premium deer, bighorn sheep, elk or pronghorn antelope hunts through the Department's Big Game Drawings for five consecutive years shall lose all preference points for that species. Persons whose applications are disqualified shall be considered the same as persons not applying. Applying for preference points as described above, will keep an applicant's file active.

6. Premium deer hunt quotas.

For premium deer hunts with quotas of ten or less, one tag will be awarded using a Draw-by-Choice Drawing, whereas the remaining tags will be awarded using a Preference Point Drawing. For premium deer hunts with quotas greater than ten, 90 percent of the quota will be awarded using a Preference Point Drawing. Any fractional tags in the Preference Points portion will be rounded to the next higher whole number. Remaining tags will be awarded using a Draw-By-Choice Drawing.

7. Junior deer hunt quotas.

For each junior deer hunt, 50 percent of the quota will be awarded using a Preference Point Drawing. Any fractional tags in the Preference Points portion will be rounded to the next higher whole number. Remaining tags for each junior deer hunt will be awarded using a Draw-By-Choice Drawing.

8. Bighorn sheep, elk and pronghorn antelope hunt quotas.

For bighorn sheep, elk and pronghorn antelope hunt quotas of four or less, one tag will be awarded using a Draw-By-Choice Drawing and the remaining tags will be awarded using a Preference Point Drawing. For quotas greater than four, 75 percent of the quota will be awarded using a Preference Point Drawing. Any fractional tags in the Preference Points portion will be rounded to the next higher whole number. Remaining tags will be awarded using a Draw-By-Choice Drawing.

For bighorn sheep, it is expected that from 50-65 percent of the total statewide quota will be awarded using Preference Point Drawings. From 35-50 percent of the total statewide bighorn sheep quota will be awarded using Draw-By-Choice Drawings. For elk and pronghorn antelope, it is expected that approximately 75 percent of the total statewide quotas will be awarded using Preference Point Drawings. Approximately 25 percent of the cumulative quotas will be awarded using Draw-By-Choice Drawings. For bighorn sheep, elk and pronghorn antelope, actual proportions allocated using Preference Point and Draw-By-Choice Drawings may vary slightly from year to year, as a result of tag quota levels for individual hunts.

9. Editorial changes.

The proposal includes editorial changes for consistency and clarity. Specifically, the existing regulations are modified at specific locations to refer readers to the proposed changes.

(b) Authority and Reference Sections from Fish and Game Code for Regulation:

Authority: Sections 200, 202, and 203, Fish and Game Code.

Reference: Sections 200, 202, 203, 203.1, and 207, Fish and Game Code.

(c) Specific Technology or Equipment Required by Regulatory Change: None.

(d) Identification of Reports or Documents Supporting Regulation Change:

A Survey of California Deer Hunters Regarding Tag Draw Methods and Deer Management Practices. June, 2002

Results of the Deer Stakeholder Meetings Held July - December, 2000.  
February, 2001

(e) Public Discussions of Proposed Regulations Prior to Notice Publication:

In 2000, the Department held a total of twenty-three (23) "Deer Stakeholder" meetings throughout the state. The meetings were open to the public, and the Department provided information on a variety of deer management strategies and issues including: Deer Assessment Unit (zone complex) planning and tag draw method alternatives. In total, the meetings were attended by approximately 1,305 interested public. Attendees were asked to participate in a survey and public comment was also received. The dates and locations of the meeting were as follows:

July 24, 2000 - Chico  
July 25, 2000 - Modesto  
July 26, 2000 - Fresno  
July 27, 2000 - Bakersfield  
August 9, 2000 - Folsom  
August 10, 2000 - Truckee  
August 22, 2000 - Bishop  
August 23, 2000 - Long Beach  
August 24, 2000 - El Cajon  
September 12, 2000 - Santa Barbara  
September 28, 2000 - Salinas  
October 17, 2000 - Eureka  
October 18, 2000 - Red Bluff  
October 19, 2000 - Susanville  
October 20, 2000 - Redding  
October 23, 2000 - Alturas  
November 1, 2000 - Rohnert Park  
November 14, 2000 - Yreka  
November 16, 2000 - Merced  
November 21, 2000 - Arroyo Grande  
December 7, 2000 - Livermore  
December 11, 2000 - El Centro  
December 14, 2000 - Redlands

In addition, the Department conducted four public meetings in which regulation change concepts and specific proposals for mammals and furbearers, including deer were presented and discussed, and additional public comment was received. The dates and locations of these meetings were as follows:

November 7, 2001 in Fresno  
November 13, 2001 in San Diego  
November 29, 2001 in Monterey  
December 13, 2001 in Sacramento

In an effort to gain additional input about the Big Game Drawing, the Department surveyed 1,000 deer hunters (half of which participated in the 2001 Big Game Drawing and half of which purchased over the counter tags). Survey results were compiled and analyzed in 2002.

#### IV. Description of Reasonable Alternatives to Regulatory Action:

##### (a) Alternatives to Regulation Change:

A Big Game Drawing based on Bonus Points was considered as an alternative. Under the Bonus Point System, applicants gain a "bonus point" for each year they are unsuccessful in the drawing. Applicants receive a computer-generated random number for each bonus point; successful applicants are selected based on hunt choice and lowest random numbers. The Bonus Point System is not recommended because it does not provide predictability of success and can not ensure that those applicants who have waited the longest will receive a tag for the hunt of their choice.

A Big Game Drawing based entirely on Preference Points (True Preference Point System) was considered as an alternative. Under the True Preference Point System, applicants gain a "preference point" for each year they are unsuccessful in the drawing. Each application receives a computer-generated random number, and successful applicants are selected based on hunt choice, most accumulated preference points, and if necessary, lowest random numbers. The True Preference Point System is not recommended because for many hunts, it does not provide an opportunity for first-time hunters and applicants re-entering the Big Game Drawing to be selected. In many instances, the True Preference Point System is inappropriate because it discriminates against all but those applicants with maximum preference points.

Another alternative involves using the Modified Preference Point drawing system with different (i.e., other than specified herein) proportions allocated to the Preference Point and Draw-By-Choice Drawings. This alternative is discussed in detail below (see items 6-8), and may be selected pending input from public meetings.

Using different drawing systems for different big game species also was considered as an alternative (e.g., Draw-By-Choice for Bighorn Sheep Hunts and Modified Preference Points for Premium Deer Hunts). This alternative also is viable and may be selected based on public input.

Alternatives to provisions of the Modified Preference Point drawing system are as follows:

1. Loss of preference points by successful applicants.

An alternative of deducting the minimum-required points (defined as the minimum number of points needed to receive a tag through the Preference Point Drawing for a given hunt; this number may vary between hunts and/or years) from a successful applicant's total was considered. This alternative is cumbersome and complicated. When implemented for party applications, this alternative can result in negative or fractional preference points for individuals. This alternative is not recommended because it is more complicated and confusing than the proposed provision.

2. Party applications.

Using the minimum or maximum preference points of individual members within a party was considered as an alternative. This alternative is not recommended because using the minimum points would be unfair to other members within the party with more points, and using maximum points would be unfair to other parties with fewer maximum points.

Statistical rounding of point averages also was considered as an alternative. This alternative is not recommended because it results in a less precise estimation of average party points.

An alternative was considered to split party applications for premium deer hunts when the number of party members exceeded the number of available tags. This alternative is not recommended because it is arbitrary and may be contrary to the desires of applicants who apply as a party because they desire to hunt together.

Another alternative was considered to exceed tag quotas of premium deer hunts when the number of party members exceeded the number of available tags. This

alternative is not recommended because it is contrary to objectives of the individual deer herd management plans.

3. Point only applications.

Not allowing point only applications was considered as an alternative. This alternative is not recommended because it penalizes applicants who may be unable to hunt in a given year due to circumstances beyond their control (e.g., military service, illness), but want to maintain their eligibility for future Big Game Drawings. Many other states allow point only applications, and no reasonable alternative to the provision exists.

4. Department records of preference points.

No reasonable alternative to the proposed provision exists.

5. Inactive applicants.

The alternative of permanently maintaining all applicants as active was considered. This alternative is not recommended because maintaining records of all applicants will eventually become expensive, cumbersome and logistically difficult. Another alternative of eliminating the points of inactive applicants after three years also was considered. This alternative is viable and may be selected based on public input.

6. Premium deer hunt quotas.

Alternatives exist to award more (or less) than 90 percent of each hunt quota using a Preference Point Drawing, and less (or more) than 10 percent of each quota using a Draw-by-Choice Drawing. These alternatives are viable and may be selected based on public input.

The Department has recommended a Modified Preference Point drawing system for implementation. The proposed splits (i.e., proportions allocated to Modified Preference Point and Draw-By-Choice Drawings) are in recognition that a significant portion of deer hunters surveyed in 2001-2002 preferred a True Preference Point drawing system.

7. Junior deer hunt quotas.

Alternatives exist to award more (or less) than 50 percent of each junior hunt quota using a Preference Point Drawing, and less (or more) than 50 percent of each quota using a Draw-by-Choice Drawing. These alternatives are viable and may be selected based on public input.

8. Bighorn sheep, elk and pronghorn antelope hunt quotas.

For hunt, zone or period quotas of four or less, there are other alternatives of allocating tags to the Preference Point and Draw-By-Choice Drawings. These alternatives may be selected based on public input. Similarly, for hunt quotas greater than four, portions allocated to the Preference Point Drawing may be greater (or less) than the recommended level of 75 percent. As a consequence, portions allocated to the Draw-by-Choice Drawing would be less (or greater) than the recommended level of 25 percent. Additionally, other rounding criteria may be adopted for fractional tags in the Preference Point or Draw-By-Choice Drawing.

These are viable alternatives which may be selected based on public input. If the proposed provisions are altered significantly, statewide totals allocated using a Preference Point Drawing will be altered, as will the statewide total tags allocated using a Draw-By-Choice Drawing.

9. Editorial Changes.

No reasonable alternatives exist to the proposed editorial changes. Although minor, the proposed editorial changes provide clarity and consistency to the regulations.

(b) No Change Alternative:

Under the no change alternative, the Big Game Drawing would continue as a Draw-By-Choice Drawing, and would select applicants based on their hunt choice and lowest, computer-generated random numbers. This alternative is not recommended because it is not responsive to input from stakeholder meetings, as well as formal and informal surveys, whose respondents favor a drawing system that provides an incentive for unsuccessful applicants to continue to participate in the drawing by improving their chances of being selected in the future.

(c) Consideration of Alternatives:

In view of information currently possessed, no reasonable alternative considered would be more effective in carrying out the purposes for which the regulation is proposed or would be as effective and less burdensome to the affected private persons than the proposed regulation.

V. Mitigation Measures Required by Regulatory Action:

No mitigation measures are required by the proposed regulatory action.

VI. Impact of Regulatory Action:

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made.

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businessmen to Compete with Businesses in other States: The agency is not aware of any cost impacts that a representative business would necessarily incur in reasonable compliance with the proposed action. The proposed action does not adjust or set tag quotas, it merely defines how these quotas will be allocated to the public.
- (b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California: None.
- (c) Cost Impacts on Private Persons: The agency is not aware of any cost impacts that a representative private person would necessarily incur in reasonable compliance with the proposed action.
- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: The proposed changes would require modification of existing drawing programs in the

Department's Hunter Information System. It is estimated that these changes will cost between \$50,000 and \$100,000. In addition to these one-time costs, the Department's License and Revenue Branch will incur ongoing personnel costs for maintenance of customer information related to point tracking (i.e., resolving duplicate customer records and researching application records to resolve customer disputes). Ongoing personnel costs are estimated at \$20,000-\$40,000 annually (0.5 - 1.0 PY at Program Tech II level).

- (e) Other Nondiscretionary Costs/Savings to Local Agencies: None.
- (f) Programs Mandated on Local Agencies or School Districts: None.
- (g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed under Part 7 (commencing with Section 17500) of Division 4: None.
- (h) Effect on Housing Costs: None.



## INFORMATIVE DIGEST

Existing regulations specify conditions under which unsuccessful applicants may accrue points for use in future drawings. The proposed change implements a Modified Preference Point drawing system that awards a specified minimum portion of the tag quota for each hunt in the Big Game Drawing to those eligible applicants with maximum accrued points (Preference Point Drawing), and the remaining portion to applicants based on hunt choice and lowest, computer-generated random numbers, without consideration of accumulated points (Draw-By-Choice Drawing). Provisions of the Modified Preference Point drawing system are as follows:

Successful applicants who receive tags for their first choice premium deer, bighorn sheep, elk or pronghorn antelope hunts will lose all preference points for that species.

For party applications, the Department shall use the average preference point value of all party members (total preference points for the party divided by number of party members) as the basis for consideration in the drawing for that species. Point averages will not be rounded. Party applications for premium deer hunts will not be split to meet the tag quota if the number of party members exceeds the number of tags available. Such premium deer hunt party applications shall be bypassed until the quota is reached.

Persons who do not wish to apply for premium deer, bighorn sheep, elk or pronghorn antelope tags may earn one preference point for any or all of these species by submitting the appropriate application(s) and writing the point code number for that species, as defined by the Department, in the hunt choice box (first choice only for deer). Persons applying for a preference point in this manner are subject to the same application requirements as regular drawing applicants.

The Department shall maintain records of preference points earned by individual applicants based on the hunter identification number provided on each application (driver's license number, Department of Motor Vehicles identification number, or hunter identification number assigned by the Department). Applicants shall notify the Department's License and Revenue Branch, at 3211 S Street, Sacramento, CA 95816, in writing, of any changes or corrections regarding name, mailing address or hunter identification number.

Persons not applying for premium deer, bighorn sheep, elk or pronghorn antelope hunts through the Department's Big Game Drawings for five consecutive years shall lose all preference points for that species. Persons whose applications are disqualified shall be considered the same as persons not applying. Applying for preference points as described above, will keep an applicant's file active.

For premium deer hunts with quotas of ten or less, one tag will be awarded using a Draw-By-Choice Drawing, whereas the remaining tags will be awarded using a Preference Point Drawing. For premium deer hunts with quotas greater than ten, 90 percent of the quota will be awarded using a Preference Point Drawing. Any fractional tags in the Preference Points portion will be rounded to the next higher whole number. Remaining tags will be awarded using a Draw-By-Choice Drawing.

For each junior deer hunt, 50 percent of the quota will be awarded using a Preference Point Drawing. Any fractional tags in the Preference Points portion will be rounded to the next higher whole number. Remaining tags for each junior deer hunt will be awarded using a Draw-By-Choice Drawing.

For bighorn sheep, elk and pronghorn antelope hunt quotas of four or less, one tag will be awarded using a Draw-By-Choice Drawing and the remaining tags will be awarded using a Preference Point Drawing. For quotas greater than four, 75 percent of the quota will be awarded

using a Preference Point Drawing. Any fractional tags in the Preference Points portion will be rounded to the next higher whole number. Remaining tags will be awarded using a Draw-By-Choice Drawing. For bighorn sheep hunts, it is expected that from 50-65 percent of the cumulative quota will be awarded using Preference Point Drawings. From 35-50 percent of the cumulative quota will be awarded using Draw-By-Choice Drawings. For elk and pronghorn antelope hunts, it is anticipated that approximately 75 percent of the cumulative quotas will be awarded using Preference Point Drawings. Approximately 25 percent of the cumulative quotas will be awarded using Draw-By-Choice Drawings.

The proposal includes editorial changes for consistency and clarity. Specifically, the existing regulations are modified to refer readers to the regulatory changes.